

February 17, 2006

**BY ELECTRONIC FILING**

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: *In the Matter of Petition of ACS of Anchorage, Inc. Pursuant to Section 10 of the Communications Act of 1934, as amended, for Forbearance from Sections 251(c)(3) and 252(d)(1) in the Anchorage LEC Study Area, WC Docket No. 05-281***

Dear Ms. Dortch:

Enclosed is a copy of GCI's Motion To Bar Disclosure Of Confidential Information to David C. Eisenberg. A copy has been delivered via courier to Karen Brinkmann, Elizabeth Park, and Stephanie Alfonso-Frank at Latham & Watkins LLP. A copy has also been sent via e-mail and facsimile.

If you have any questions or concerns, please feel free to contact me at (202) 730-1320.

Respectfully Submitted,



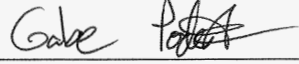
John T. Nakahata  
HARRIS, WILTSHIRE & GRANNIS, LLP  
1200 18<sup>th</sup> Street, NW, Suite 1200  
Washington, DC 20036

*Counsel for General Communication, Inc.*

Enclosures

CERTIFICATE OF SERVICE

I, Gabe Podesta, certify that on this day of February 17, 2006, copies of the foregoing motion were sent via courier, facsimile, and e-mail to the parties listed below.

  
\_\_\_\_\_

Karen Brinkmann  
Elizabeth Park  
Stephanie Alfonso-Frank  
LATHAM & WATKINS, LLP  
555 Eleventh Street, NW  
Suite 1000  
Washington, DC 20004-1304  
202-637-2201 (facsimile)

*Counsel to ACS of Anchorage*

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of Petition of ACS of Anchorage, Inc. Pursuant to Section 10 of the Communications Act of 1934, as Amended, for Forbearance from Sections 251(c)(3) and 251(d)(1) in the Anchorage LEC Study Area

WC Docket No. 05-281

**GCI'S MOTION TO BAR DISCLOSURE OF  
CONFIDENTIAL INFORMATION TO DAVID C. EISENBERG**

General Communication, Inc. ("GCI") objects to the disclosure of information that it designated as confidential in the above-captioned proceeding to David C. Eisenberg, who is identified in his certification as the Senior Vice President Corporate Strategy and Development and Regulatory, ACS of Anchorage, Inc. ("ACS"). Pursuant to ¶ 3 of the governing Protective Order, WC Docket No. 05-281 (October 14, 2005) ("Protective Order"), GCI hereby moves to bar any such disclosure.

Paragraph 3 of the Protective Order states that confidential documents may be disclosed to, among others, "in-house economists and regulatory analysts," but only "if disclosure is reasonably necessary for such persons to render professional services in this proceeding." Paragraph 3(a) requires that prior to disclosure any such person must certify that they will abide by the Protective Order. The Protective Order only permits use of confidential information to provide professional analysis that bears on the outcome of this particular proceeding.

On February 15, 2006, ACS served GCI with a certification of confidentiality executed by Mr. Eisenberg, in which he identifies himself as a "SVP Corporate Strategy

and Development and Regulatory.”<sup>1</sup> The certification, however, provides no indication that Mr. Eisenberg is entitled to review confidential information under ¶ 3 of the Protective Order. Mr. Eisenberg does not appear to be an economist, so GCI can only surmise from the title listed on his certification that ACS is holding out Mr. Eisenberg as a “regulatory analyst.” GCI submits, however, that Mr. Eisenberg is not a “regulatory analyst” in practice or as envisioned under the Protective Order. ACS’s need for Mr. Eisenberg to review sensitive and confidential GCI proprietary business information is not apparent from the description of his position on ACS’s website.<sup>2</sup>

On ACS’s website, and in documents filed with the Regulatory Commission of Alaska, Mr. Eisenberg is identified as “Senior Vice President Corporate Strategy and Development.”<sup>3</sup> Similarly, Mr. Eisenberg’s biography on the ACS website makes no reference to current regulatory responsibilities with ACS and certainly no responsibilities that would qualify Mr. Eisenberg as an in-house “regulatory analyst.”<sup>4</sup> Indeed, this biography suggests that Mr. Eisenberg’s regulatory responsibilities were limited to his “21-year career with Sprint and Centel,” “prior to joining ACS.”

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<sup>1</sup> Certification of David Eisenberg, attached hereto as Exhibit A.

<sup>2</sup> Moreover, any such need can certainly be mitigated by disclosure among the other ACS employees that have certified compliance with the Protective Order.

<sup>3</sup> ACS’s webpage identifying its “Management Team” lists Mr. Eisenberg as “Senior Vice President Corporate Strategy and Development.” (A printout of the website (<http://www.acsalaska.com/ALSK/en-US/Management+Team/>) is attached hereto as Exhibit B). See also *Affidavit of David C. Eisenberg in Support of Joint Motion for Expedited Consideration*, RCA Docket U-04-43 (filed May 5, 2004) (identifying himself as the “Senior Vice President of Corporate Strategy & Development for ACS of Anchorage, Inc., ACS of Fairbanks, Inc., and ACS of Alaska, Inc.”).

<sup>4</sup> A printout of Mr. Eisenberg’s biography from the ACS website (<http://acsalaska.com/ALSK/en-US/Management+Team/David+C.+Eisenberg.htm>) is attached hereto as Exhibit C.

The Protective Order was issued to protect sensitive business information from being used outside of this proceeding. Without any intention of questioning Mr. Eisenberg's integrity, it is unreasonable to expect someone with his substantial business and business strategy responsibilities to hermetically partition his brain so as to exclude confidential information learned in the course of the regulatory process. Moreover, there is no reason that disclosure of GCI's confidential information would be "reasonably necessary . . . to render professional services in this proceeding." It is uncertain what professional services Mr. Eisenberg is rendering here. The requested disclosure is therefore inconsistent with the Protective Order and could harm GCI by enabling ACS to use GCI confidential information to its benefit in negotiations with GCI or in fashioning its competitive response to GCI.

In any event, ACS has not complied with the requirement contained in ¶ 3(b) of the Protective Order that a party seeking disclosure to persons "employed by a competitor or potential competitor of the party that so designated the document" identify with particularity the documents to be disclosed and the purpose of disclosure. Mr. Eisenberg is clearly an employee of a GCI competitor. Thus, even beyond the fact that Mr. Eisenberg is not a person entitled to see this information, ACS has not complied with ¶ 3(b) as to Mr. Eisenberg—or any other ACS employee for that matter—and as such cannot disclose this information to him.

Respectfully submitted,

\_\_\_\_\_  
/s/

Tina Pidgeon  
Vice-President –  
Federal Regulatory Affairs  
General Communication, Inc.  
1130 17<sup>th</sup> Street, N.W., Suite 410  
Washington, D.C. 20036  
(202) 457-8812

John T. Nakahata  
Brita D. Strandberg  
Bruce L. Gottlieb  
Christopher P. Niernan  
Harris, Wiltshire & Grannis LLP  
1200 Eighteenth Street, N.W.  
Washington, D.C. 20036  
(202) 730-1300

*Counsel for General Communication, Inc.*

Filed: February 17, 2006

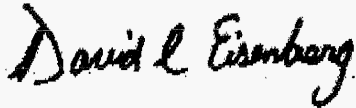
# **Exhibit A**

## ATTACHMENT A

WC DOCKET NO. 05-281

I have received a copy of the Protective Order in WC Docket No. 05-281. I have read the order and agree to comply with and be bound by the terms and conditions of this Protective Order. The signatory understands, in particular, that unauthorized disclosure, or the use of the information for competitive commercial or business purposes, will constitute a violation of this Protective Order.

SIGNATURE:



NAME PRINTED: David C. Eisenberg

TITLE: SVP Corporate Strategy and Development and Regulatory

ADDRESS: 600 Telephone Avenue  
Anchorage, Alaska 99503

REPRESENTING: NA

EMPLOYER: Alaska Communications Systems

DATE: February 10, 2006



# **Exhibit B**



Alaska Communications Systems

## INVESTOR RELATIONS ~ Alaska Communications Systems

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### **Management Team**

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Our management team realizes the vital role of representing the interests of our shareholders. Select a name from the list below to read about an individual Management Team member.

#### **Liane Pelletier**

Chief Executive Officer and President

#### **David C. Eisenberg**

Senior Vice President  
Corporate Strategy and Development

#### **Sheldon Fisher**

Senior Vice President  
Sales and Product Marketing

#### **Kenneth L. Sprain**

Senior Vice President  
Network and Information Technology

#### **David Wilson**

Senior Vice President  
Treasurer & Chief Financial Officer

#### **Leonard Steinberg**

General Counsel & Corporate Secretary

#### **Elizabeth A. Pierce**

Vice President  
HR and Facilities Services



# **Exhibit C**



## INVESTOR RELATIONS ~ Alaska Communications Systems

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#### **Sheldon Fisher**

Senior Vice President  
Sales and Product Marketing

#### **Kenneth L. Sprain**

Senior Vice President  
Network and Information Technology

#### **David Wilson**

Senior Vice President  
Treasurer & Chief Financial Officer

#### **Leonard Steinberg**

General Counsel & Corporate Secretary

#### **Elizabeth A. Pierce**

Vice President  
HR and Facilities Services

David Eisenberg serves as the Senior Vice President of Corporate Strategy and Development for ACS.

Prior to joining ACS, Mr. Eisenberg was Vice President - Corporate Strategy for Sprint Corporation where he was responsible for helping shape the corporation's strategic direction. In his 21-year career with Sprint and Centel, Mr. Eisenberg held numerous management positions within the Local Telecommunications Division and on Sprint's corporate staff. These included roles in sales and marketing, finance, regulatory and strategic planning.

Mr. Eisenberg holds a Bachelor of Mathematics degree from Northwestern University and a Master of Business degree from Keller GSM.

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